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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,163	01/20/2004	Marc Duane Strickland	DCC-001	9009

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MILLER PATENT SERVICES
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EXAMINER	
PETTITT, JOHN F	
ART UNIT	PAPER NUMBER
3744	
MAIL DATE	DELIVERY MODE
05/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/760,163	STRICKLAND ET AL.	
	Examiner	Art Unit	
	John Pettitt	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 February 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments, see pages 8, filed 02/27/2007, with respect to the rejection(s) of claim(s) 5-24 under 35 U.S.C. § 103(a) as unpatentable in view of Petri, Wandel, and Booth have been fully considered. In regard to the applicant's arguments that the lid structure of Petri is not capable of performing the functions described by the claim; the examiner disagrees, and finds that the lid structure of Petri is capable of performing the claimed functions found in each of the wherein clauses of each of the independent claims 5, 14, and 22.

However, it is agreed that the drain (29) and vent (27) spouts are not in fluid communication with the interior of container (17) as would be necessary for the rejection to be proper as recited for the following reason. Even if the inner and outer seals were appropriately cited to accommodate referencing the annular space interior to the housing (10,11) but exterior to container (16) as the outer reservoir and the interior of container (16) as the inner reservoir, one of ordinary skill in the art would not consider modifying Petri with two taps; one tap accessing the annular space, and the other accessing the interior of container (16) because of Petri's teachings regarding the interior of container (17) and interior of container (16) as the inner and outer reservoirs and the annular space as provided for installation ease (column 2, line 15; column 4, lines 1-32; column 5, lines 1-5).

Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection of claims 5-24 is made in view of Hyatt (US 5,328,050) and Diamond et al. (US 4,932,563).

As such this action is being made non-final to allow the applicant the opportunity to respond to the new grounds of rejection made herein. Additionally, a proposed amendment has been provided for the applicant's consideration in the conclusion section.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 5-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hyatt (US 5,328,050) hereafter Hyatt in view of Diamond et al. (US 4,932,563) hereafter Diamond and Booth (US 2,706,508) hereafter Booth.

Hyatt teaches an apparatus comprising an outer housing shell (38); an inner housing shell (14) disposed within the outer housing shell (38) and coupled thereto to form an outer reservoir (within 14), wherein the inner and outer housing shells (14, 38) comprise a housing (together they form a housing), and wherein the housing (14, 38) has an approximately circular cross-section (Fig. 1-8); an inner core (20) residing within the inner shell (14) to form an inner reservoir (interior of 20); a first tap (16) coupled to the outer reservoir (14) and passing through the outer shell (38) to provide access to and permit dispensing of a liquid stored in the outer reservoir (within 14); a second tap (22) coupled to the inner reservoir (20) and passing through both the inner shell (14)

and the outer shell (38) to provide access to and permit dispensing of a liquid stored in the inner reservoir (20); a vent spout (54) in fluid communication with the inner reservoir (20); and a lid (24) for closing the housing (14, 38), the lid (24) having both an outer seal (28) adjacent a periphery (top edge of housing) thereof to seal the outer reservoir and an inner seal (15, 26) to seal the inner reservoir (20); a foam insulation layer (36) is injected between the inner and outer shells (14, 38); a pair of handles (30) coupled to the outer shell to facilitate lifting of the double cooler apparatus (capable of so facilitating); and means for coupling the lid (24) to the outer shell (38) wherein the means for coupling the lid to the outer shell (38) comprises a tie (wire or member connecting 44 to housing 38; see Fig. 3) coupling the lid (24) to the handles (44).

Hyatt does not explicitly teach a drain spout in fluid communication with the inner reservoir (20). However, Diamond teaches a drain spout (21; Figures 1-2) in fluid communication with an inner reservoir (20) for the purpose of spraying oneself with fluid to cool oneself (column 1, lines 36-37). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the cooler of Hyatt with the drain spout (sprayer - 21) of Diamond for the purpose of providing a means to spray and cool oneself with fluid from the inner reservoir. Clearly it would also be desirable to have the spray spout connected to a longer tube so that a user could spray at a variety of angles and not need to move the cooler. Those of ordinary skill in the art would be both capable and motivated to make this modification for the purpose of allowing the user to both drink from the cooler and spray him or her self.

Hyatt and Diamond do not disclose a cup holder bracket coupled to the outer shell. However, it is common in the art to supply such containers with cup holder brackets as taught by Booth (Fig. 1) for the purpose of providing conveniently accessible cups to a user. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the cooler of Hyatt with a cup holder bracket for the purpose of providing cups to a user.

Further, while the prior art cited does not explicitly state the size or capacity of the components, (i.e. the inner reservoir having a fluid capacity of approximately two gallons and the inner housing shell with the inner core in place having a fluid capacity of approximately five gallons), it should be noted that absent a showing in the specification that such limitations have specific criticality and provide unexpected results, they are regarded as obvious fluid capacity ranges as coolers are generally sold at a variety of sizes (say 1-10 gallons) and one of ordinary skill in the art would have been able to determine appropriate sizes for the reservoirs based on the target consumer and planned usage.

The combination discussed results in a cooler wherein, when the lid (24) is fully engaged with the housing (14, 38), both the inner (20) and outer reservoirs (14) are sealed by the inner (15, 26) and outer seals (28) and the vent spout (54) and drain spout (sprayer) are closed (capable of being so operated - 54 can be covered and the drain spout or sprayer can be closed or off), wherein, when the lid (24) is lifted from full engagement without removal from engagement with the housing (26 unscrewed a degree and 44 not fully locked down - therefore they are still in contact with the

housing), the vent spout (54) and drain spout (sprayer) are revealed and the inner seal is opened to permit draining the inner reservoir through the drain spout (through sprayer) and venting through the vent spout (54) to facilitate the draining, without permitting fluid communication between the inner and outer reservoirs (sprayer to inner reservoir does not move fluid into or out of outer reservoir); and wherein, when the lid is removed from engagement with the housing, both the inner and outer seals are unsealed (capable of being so operated) to open the inner and outer reservoirs.

Remarks

In view of the applicant's disclosure and the prior art of record, the following amendment to claim 5, 14, and 22 immediately following the recitation, "a lid for closing the housing, the lid having both an outer seal adjacent a periphery thereof to seal the outer reservoir and an inner seal to seal the inner reservoir," (found in every one of claims 5, 14, and 22), may render the claims, as a whole, allowable:

--wherein, the vent spout and the drain spout extend in a radial direction from the inner core and mate with recesses in the lid.--

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pettitt whose telephone number is 571-272-0771. The examiner can normally be reached on M-F 8a-4p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JFP III
May 4, 2007

CHERYL TYLER
SUPERVISORY PATENT EXAMINER